

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

REUBEN AVENT,

Plaintiff,

v.

**9:05-CV-1311
(FJS/GJD)**

**JOHN DOE, Correctional Officer; JACK DOE,
Correctional Officer; K. PERLMAN, Superintendent;
C. PARMITA, I.G.P.; SUPERINTENDENT GRAHAM;
GLENN S. GOORD, Commissioner; THOMAS
EAGEN; and SCHWEBER, I.G.P.,**

Defendants.

APPEARANCES

OF COUNSEL

REUBEN AVENT

01-A-5796

Auburn Correctional Facility
P.O. Box 618
Auburn, New York 13021
Plaintiff *pro se*

**OFFICE OF THE NEW YORK
STATE ATTORNEY GENERAL**

The Capitol
Albany, New York 12224
Attorneys for Defendants

JAMES J. SEAMAN, AAG

SCULLIN, Senior Judge

ORDER

In an Order and Report-Recommendation dated March 20, 2007, Magistrate Judge DiBianco recommended that the Court grant Defendants' motion to dismiss and deny Plaintiff's motion for joinder and to supplement his complaint. *See* Dkt. No. 29. Plaintiff has filed objections to those recommendations. *See* Dkt. No. 30.

It is somewhat difficult to comprehend the specific nature of Plaintiff's objections. However, a review of the record demonstrates that, in his objections, Plaintiff raises many of the same arguments that he did in opposition to Defendants' motion to dismiss. The Court finds such objections without merit for the same reasons that Magistrate Judge DiBianco rejected these arguments in his Order and Report-Recommendation. Moreover, to the extent that Plaintiff is requesting leave to file an amended complaint, the Court denies that request as futile. *See Tocker v. Philip Morris Cos., Inc.*, 470 F.3d 481, 491 (2d Cir. 2006) (holding that "a motion for leave to amend a complaint may be denied when amendment would be futile" (citation omitted)).

Accordingly, the Court hereby

ORDERS that Magistrate Judge DiBianco's March 20, 2007 Order and Report-Recommendation is **ADOPTED IN ITS ENTIRETY for the reasons stated therein**; and the Court further

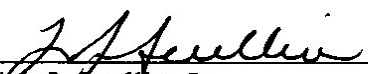
ORDERS that Defendants' motion to dismiss Plaintiff's complaint is **GRANTED**; and the Court further

ORDERS that Plaintiff's motion for joinder and to supplement his pleading is **DENIED**; and the Court further

ORDERS that the Clerk of the Court shall enter judgment in favor of Defendants and close this case.

IT IS SO ORDERED.

Dated: March 30, 2008
Syracuse, New York



Frederick J. Scullin, Jr.
Senior United States District Court Judge